

2005 DRAFTING REQUEST

Bill

Received: **09/29/2004**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **Todd Stuart**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - electric**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to: **todd.stuart@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Advance determination of rate-making principles for electric generation construction projects

Instructions:

See ch. 10 of PSC's Strategic Energy Assessment and see Iowa legislation

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/P1	mkunkel 02/09/2005	wjackson 02/10/2005	jfrantze 02/10/2005		Inorthro 02/10/2005		State
/1	mkunkel 02/16/2005	wjackson 02/16/2005	rschluet 02/16/2005		lemery 02/16/2005		State
	pgrant 02/16/2005	wjackson 02/16/2005					

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/2			pgreensl	_____	sbasford	mbarman	
			02/16/2005	_____	02/16/2005	02/21/2005	

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12 WJ 2/16

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p8 1/15

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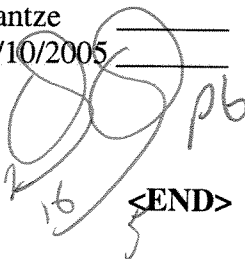
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/?	mkunkel	/Pl Wlj 2/10	Joe 2/10	Jb/B 2/10			

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<END>

Kunkel, Mark

From: Stuart, Todd
Sent: Monday, September 27, 2004 2:14 PM
To: Kunkel, Mark
Subject: drafting requests

Hi Mark

Here's a list of 5 drafting requests. Feel free to contact me or John Stolzenberg or David Lovell for further details:

Old Business

1. Strategic Energy Assessment: Moves this to be 7-year time horizon. *Passed Legislature, but vetoed by Doyle because it was part of the Job Creation Act set of bills and he didn't like the process.* - 0331

2. Restrictions on Focus on Energy: Extend passive review by JFC to large Public Benefits expenditures over \$150,000. Also establish administrative rules for cost-to-benefit criteria for grants for periods of less than three years and more than 10 years. *Drafted as LRB - 4172/3dn in 2004 and LRB - 4065/1 in 2004.* - 0332

Strategic Energy Assessment Chapter 10 Recommendations

3. Allowing fixed financial parameters for new power plants that use rate-based financing techniques: This is the Iowa ratemaking principles model. *I will send a packet of materials I have with the Iowa bill.* 0336

4. Eliminating the requirement to review an alternate power plant if the proposed site is an existing power plant site 0337

5. Governor's Task Force on Energy Efficiency and Renewables 0339

• Require that Wisconsin's utilities generate 10% of their electricity from renewable sources by 2015: Each state utility would have to boost their renewable supply by 2% by 2010, and by a total of 6% by 2015. However, utilities would be given a way to be exempt from those deadlines if they can prove complying will hurt their customers.

• Increase the state's own purchase of renewable electricity to 20% by 2010.

• Upgrade state building codes to require more energy efficiency.

• Empower the state Public Service Commission to set targets and funding levels for state energy efficiency spending. - See p 15 ff.

• Create rural energy initiatives such as use of small-scale manure-to-energy devices, known as anaerobic digesters, and wind turbines.

Energy Efficiency and Renewables that was not part of Task Force 0555

6. Distributed generation grant program: Offers grants up to \$30,000 or up to 30% of eligible costs for businesses to install DG such as fuel cells, microturbines, cogen, CHP and renewables. DOA Energy/Focus on Energy has been asked to see what they are currently doing compared to the Indiana program. If this a good idea, how much would it cost? If Focus is not doing this, maybe they should out of existing public benefits money.

Todd C. Stuart
Office of State Senator Rob Cowles
608.266.0484 Office

CHAPTER 4 (2001 Extraordinary Session)

ELECTRIC POWER GENERATION AND TRANSMISSION — MISCELLANEOUS PROVISIONS

H.F. 577 Bill History

AN ACT relating to electric power generation and transmission, by addressing the criteria for construction or lease of an electric generating facility, and for the development of ratemaking principles to apply to certain electric generating facilities; waivers; providing for the development of a state electric energy policy; providing for alternate energy purchase programs; approval of plans and budgets for regulating emissions from coal-fired plants; providing for joint agreements for acquisition of ownership of a joint facility for electric power generation and transmission, and for the planning, financing, operation, and maintenance of the joint facility; providing for the bonding authority of electric power agencies; and making certain other changes and requirements related to electric generation and transmission; and providing an effective date.

5.476.53, pp 7 and 8
↑

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12C.1, subsection 1, Code 2001, as amended by 2001 Iowa Acts, House File 637,¹ section 4, is amended to read as follows:

1. All funds held by the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: for the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the

board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a library service area established under chapter 256, by the library service area board of trustees; and for an electric power agency as defined in section 28F.2 or 476A.20, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 12B.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2. Notwithstanding provisions of this section to the contrary, public funds of a state government deferred compensation plan established by the executive council may also be invested in the investment products authorized under section 509A.12.

Sec. 2. Section 12C.1, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. "Public funds" and "public deposits" mean the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2 or 476A.20; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.

Sec. 3. Section 28F.2, Code 2001, is amended to read as follows:

28F.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. The terms "public agency", "state", and "private agency" shall have the meanings prescribed by section 28E.2.
2. The term "project" or "projects" shall mean means any works or facilities referred to in section 28F.1 and shall include all property real and personal, pertinent thereto or connected with such project or projects, and the existing works or facilities, if any, to which such project or projects are an extension, addition, betterment or improvement.
3. "Electric power agency" means an entity financing or acquiring electric power facilities pursuant to this chapter or chapter 28E or 476A.

Sec. 4. Section 427.1, subsection 2, Code 2001, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district, or the Iowa national guard, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F ~~which~~ or 476A that shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes, or leased from the city or county by the Iowa national guard or by a federal agency for the benefit of the Iowa national guard when devoted for public use and not for pecuniary profit. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

Sec. 5. Section 437A.3, subsection 17, paragraph b, Code 2001, is amended to read as follows:

b. An electric power generating plant where the acquisition cost of all interests acquired exceeds ten million dollars. For purposes of this paragraph, "electric power generating plant" means each nameplate rated electric power generating plant owned solely or jointly by any person or electric power facility financed under the provisions of chapter 28F or 476A in which electrical energy is produced from other forms of energy, including all equipment used in the production of such energy through its step-up transformer.

Sec. 6. Section 437A.6, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Facilities owned by or leased to a municipal utility when devoted to public use and not held for pecuniary profit, except facilities of a municipally owned electric utility held under joint

ownership or lease and facilities of an electric power facility financed under chapter 28F or 476A.

Sec. 7. Section 437A.7, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Transmission lines owned by or leased to a municipal utility when devoted to public use and not for pecuniary profit, except transmission lines of a municipally owned electric utility held under joint ownership and transmission lines of an electric power facility financed under chapter 28F or 476A.

Sec. 8. Section 476.1A, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Filing alternate energy purchase program plans with the board, and offering such programs to customers, pursuant to section 476.47.

Sec. 9. Section 476.1B, subsection 1, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. m. An electric power agency as defined in chapters 28F and 476A that includes as a member a city or municipally owned utility that builds transmission facilities after July 1, 2001, is subject to applicable transmission reliability rules or standards adopted by the board for those facilities.

n. Filing alternate energy purchase program plans with the board, and offering such programs to customers, pursuant to section 476.47.

Sec. 10. Section 476.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING FACILITY EMISSIONS.

a. It is the intent of the general assembly that the state, through a collaborative effort involving state agencies and affected generation owners, provide for compatible statewide environmental and electric energy policies with respect to regulated emissions from rate-regulated electric power generating facilities in the state that are fueled by coal. Each rate-regulated public utility that is an owner of one or more electric power generating facilities fueled by coal and located in this state on July 1, 2001, shall develop a multiyear plan and budget for managing regulated emissions from its facilities in a cost-effective manner.

(1) The initial multiyear plan and budget shall be filed with the board by April 1, 2002.

Updates to the plan and budget shall be filed at least every twenty-four months.

(2) Copies of the initial plan and budget, as well as any subsequent updates, shall be served on the environmental protection division of the department of natural resources.

- (3) The initial multiyear plan and budget and any subsequent updates shall be considered in a contested case proceeding pursuant to chapter 17A. The environmental protection division of the department of natural resources and the consumer advocate shall participate as parties to the proceeding.
- (4) The department of natural resources shall state whether the plan or update meets applicable state environmental requirements for regulated emissions. If the plan does not meet these requirements, the department shall recommend amendments that outline actions necessary to bring the plan or update into compliance with the environmental requirements.
- b. The board shall not approve a plan or update that does not meet applicable state environmental requirements and federal ambient air quality standards for regulated emissions from electric power generating facilities located in the state.
- c. The board shall review the plan or update and the associated budget, and shall approve the plan or update and the associated budget if the plan or update and the associated budget are reasonably expected to achieve cost-effective compliance with applicable state environmental requirements and federal ambient air quality standards. In reaching its decision, the board shall consider whether the plan or update and the associated budget reasonably balance costs, environmental requirements, economic development potential, and the reliability of the electric generation and transmission system.
- d. The board shall issue an order approving or rejecting a plan, update, or budget within one hundred eighty days after the public utility's filing is deemed complete; however, upon good cause shown, the board may extend the time for issuing the order as follows:
- (1) The board may grant an extension of thirty days.
 - (2) The board may grant more than one extension, but each extension must rely upon a separate showing of good cause.
 - (3) A subsequent extension must not be granted any earlier than five days prior to the expiration of the original one-hundred-eighty-day period, or the current extension.
- e. The reasonable costs incurred by a rate-regulated public utility in preparing and filing the plan, update, or budget and in participating in the proceedings before the board and the reasonable costs associated with implementing the plan, update, or budget shall be included in its regulated retail rates.
- f. It is the intent of the general assembly that the board, in an environmental plan, update, or associated budget filed under this section by a rate-regulated public utility, may limit

investments or expenditures that are proposed to be undertaken prior to the time that the environmental benefit to be produced by the investment or expenditure would be required by state or federal law.

g. The board shall report to the general assembly by January 21, 2003, on the appropriateness and desirability of requiring the municipal utilities and the rural electric cooperatives to file multiyear plans and budgets for managing regulated emissions from their electric power generating facilities fueled by coal and located in this state, similar to the process required for rate-regulated public utilities under this subsection.

Sec. 11. NEW SECTION. 476.47 ALTERNATE ENERGY PURCHASE PROGRAMS.

1. Beginning January 1, 2004, an electric utility, whether or not rate-regulated under this chapter, shall offer an alternate energy purchase program to customers, based on energy produced by alternate energy production facilities in Iowa.

2. The board shall require electric utilities to file plans for alternate energy purchase programs offered pursuant to this section.

a. Rate-regulated electric utilities shall file plans for alternate energy purchase programs that allow customers to contribute voluntarily to the development of alternate energy in Iowa, and shall file tariffs as required by the board by rule.

b. Electric utilities that are not rate-regulated shall offer alternate energy purchase programs at rates determined by their governing authority, and shall file tariffs with the board for informational purposes only.

3. The electric utility shall notify consumers of its alternate energy purchase program and any proposed modifications to such program at least sixty days prior to implementation of the program or any modification.

4. For purposes of this section, an electric utility may base its program on energy produced by alternate energy production facilities located outside of Iowa under any of the following circumstances:

a. The energy is purchased by the electric utility pursuant to a contract in effect prior to July 1, 2001, and continues until the expiration of the contract, including any options to renew that are exercised by the electric utility.

b. The electric utility has a financial interest, as of July 1, 2001, in the alternate energy production facility that is located outside of Iowa, or in an entity that has a financial interest in an alternate energy production facility located outside of Iowa.

~~STRIKED~~ ~~STRIKED~~

c. The energy is purchased by an electric utility that is not rate-regulated and that is required to purchase all of its electric power requirements from a single supplier that is physically located outside of Iowa.

5. This section shall not apply to non-rate-regulated electric utilities physically located outside of Iowa that serve Iowa customers.

6. Any consumer-owned utility may apply to the board for a waiver under this section, and the board, for good cause, may grant the waiver.

Sec. 12. Section 476.53, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

476.53 ELECTRIC GENERATING AND TRANSMISSION FACILITIES.

1. It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.

2. The general assembly's intent with regard to the development of electric power generating and transmission facilities, as provided in subsection 1, shall be implemented in a manner that is cost-effective and compatible with the environmental policies of the state, as expressed in Title XI.

3. a. If a rate-regulated public utility files an application pursuant to section 476A.3 to construct in Iowa a baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or an alternate energy production facility as defined in section 476.42, or if a rate-regulated public utility leases or owns in Iowa, in whole or in part, a new baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or a new alternate energy production facility as defined in section 476.42, the board shall specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs of the facility are included in regulated electric rates.

b. In determining the applicable ratemaking principles, the board shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms.

c. In determining the applicable ratemaking principles, the board shall make the following findings:

(1) The rate-regulated public utility has in effect a board-approved energy efficiency plan as required under section 476.6, subsection 19.

(2) The rate-regulated public utility has demonstrated to the board that the public utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. The rate-regulated public utility may satisfy the requirements of this subparagraph through a competitive bidding process, under rules adopted by the board, that demonstrate the facility or lease is a reasonable alternative to meet its electric supply needs.

d. The applicable ratemaking principles shall be determined in a contested case proceeding, which proceeding may be combined with the proceeding for issuance of a certificate conducted pursuant to chapter 476A.

e. The order setting forth the applicable ratemaking principles shall be issued prior to the commencement of construction or lease of the facility.

f. Following issuance of the order, the rate-regulated public utility shall have the option of proceeding with construction or lease of the facility in Iowa, or withdrawing its application for a certificate under chapter 476A.

g. Notwithstanding any provision of this chapter to the contrary, the ratemaking principles established by the order issued pursuant to paragraph "e" shall be binding with regard to the specific electric power generating facility in any subsequent rate proceeding.

Sec. 13. Section 476A.4, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A proceeding for the issuance of a certificate under section 476A.5 may be consolidated with a contested case proceeding for determination of applicable ratemaking principles under section 476.53.

Sec. 14. Section 476A.6, Code 2001, is amended to read as follows:

476A.6 DECISION — CRITERIA.

The board shall render a decision on the application in an expeditious manner. A certificate shall be issued to the applicant if the board finds all of the following:

1. The services and operations resulting from the construction of the facility are required by the present or future public convenience, use and necessity consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state as expressed in Title I, subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service.

2. The applicant is willing to ~~perform such services and~~ construct, maintain, and operate the facility pursuant to the provisions of the certificate and this chapter.
3. The construction, maintenance, and operation of the facility will ~~cause minimum adverse~~ be consistent with reasonable land use, and environmental, and aesthetic impact policies and are consonant with reasonable utilization of air, land, and water resources, ~~for beneficial~~ purposes considering available technology and the economics of available alternatives.
4. ~~The applicant, if a public utility as defined in section 476.1, has in effect a comprehensive energy management program designed to reduce peak loads and to increase efficiency of use of energy by all classes of customers of the utility, and the facility in the application is necessary notwithstanding the existence of the comprehensive energy management program. As used in this subsection, a "comprehensive energy management program" includes at a minimum the following:~~
 - a. ~~Establishment of load management and interruptible service programs, where cost effective.~~
 - b. ~~Development of wheeling agreements and other energy sharing agreements, where cost effective with utilities that have available capacity.~~
 - c. ~~Establishment of cost effective energy efficiency and renewable energy services and programs.~~
 - d. ~~Compliance with board rules on energy management procedures.~~
5. ~~The applicant, if a public utility as defined in section 476.1, shall demonstrate to the board that the utility has considered sources for long term electric supply from either purchase of electricity or investment in facilities owned by other persons.~~
6. ~~The applicant, if a public utility as defined in section 476.1, has considered all feasible alternatives to the proposed facility including nongeneration alternatives; has ranked those alternatives by cost; has implemented the least cost alternatives first; and the facility in the application is necessary notwithstanding the implementation of these alternatives.~~

Sec. 15. Section 476A.7, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Pursuant to the provisions of section 476.53, a rate-regulated public utility shall have the option of withdrawing its application for issuance of a certificate at any time prior to the issuance of the certificate, or after the certificate has been issued.

Sec. 16. Section 476A.15, Code 2001, is amended to read as follows:

476A.15 WAIVER.

The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter ~~for facilities with a capacity of one hundred or fewer megawatts.~~

Sec. 17. NEW SECTION. 476A.20 DEFINITIONS.

For purposes of this subchapter, unless the context otherwise requires:

1. "Electric power agency" means an entity as defined in section 28F.2.
2. "Facility" means an electric power generating plant, or transmission line or system, as defined in section 476A.1.
3. "Public bond or obligation" means an obligation as defined in section 76.14.

Sec. 18. NEW SECTION. 476A.21 ELECTRIC POWER AGENCY — GENERAL AUTHORITY.

In addition to other powers conferred upon an electric power agency by chapter 28F or other applicable law, an electric power agency may enter into and carry out joint agreements with other participants for the acquisition of ownership of a joint facility and for the planning, financing, operation, and maintenance of the joint facility, as provided in this subchapter.

Sec. 19. NEW SECTION. 476A.22 ELECTRIC POWER AGENCY — AUTHORITY — CONFLICTING PROVISIONS.

1. In addition to any powers conferred upon an electric power agency under chapter 28F or other applicable law, an electric power agency may exercise all other powers reasonably necessary or appropriate for or incidental to the effectuation of the electric power agency's authorized purposes, including without limitation, the powers enumerated in chapters 6A and 6B for purposes of constructing or acquiring an electric power facility.
2. An electric power agency, in connection with its property and affairs, and in connection with property within its control, may exercise any and all powers that might be exercised by a natural person or a private corporation in connection with similar property and affairs.
3. The enumeration of specified powers and functions of an electric power agency in this subchapter is not a limitation of the powers of an electric power agency, but the procedures prescribed for exercising the powers and functions enumerated in this subchapter control and govern in the event of any conflict with any other provision of law.
4. The authority conferred pursuant to this subchapter applies to electric power agencies, notwithstanding any contrary provisions of section 28F.1.

Sec. 20. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC BONDS OR OBLIGATIONS — PURPOSES — LIMITATIONS.

1. An electric power agency may from time to time issue its public bonds or obligations in such principal amounts as the electric power agency deems necessary to provide sufficient funds to carry out any of its purposes and powers, including but not limited to any of the following:

- a. The acquisition or construction of any project to be owned or leased by the electric power agency, or the acquisition of any interest in such project or any right to the capacity of such project, including the acquisition, construction, or acquisition of any interest in an electric power generating plant to be constructed in this state, or the acquisition, construction, or acquisition of any interest in a transmission line or system.
- b. The funding or refunding of the principal of, or interest or redemption premiums on, any public bonds or obligations issued by the electric power agency whether or not the public bonds or obligations or interest to be funded or refunded have become due.
- c. The establishment or increase of reserves to secure or to pay the public bonds or obligations or interest on the public bonds or obligations.
- d. The payment of all other costs or expenses of the electric power agency incident to and necessary to carry out its purposes and powers.

2. Notwithstanding anything in this subchapter or chapter 28F to the contrary, a facility shall not be financed with the proceeds of public bonds or obligations, the interest on which is exempt from federal income tax, unless the public issuer of such public bonds or obligations covenants that the issuer shall comply with the requirements or limitations imposed by the Internal Revenue Code or other applicable federal law to preserve the tax exemption of interest payable on the bonds or obligations.

3. Notwithstanding anything in this subchapter or chapter 28F to the contrary, an electric power generating facility shall not be financed under this subchapter unless all of the following conditions are satisfied:

- a. The portion of the electric power generating facility financed by the electric power agency is not designed to serve the electric power requirements of retail customers of members that are municipal electric utilities established in the state after January 1, 2001.

b. The electric power agency annually files with the board, in a manner to be determined by the board, information regarding sales from the electric power generating facility in sufficient detail to determine compliance with these provisions.

The board shall report to the general assembly if any of the provisions are being violated.

Sec. 21. NEW SECTION. 476A.24 PUBLIC BONDS OR OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD — TERMS.

1. The board of directors of an electric power agency, by resolution, may authorize the issuance of public bonds or obligations of the electric power agency.
2. The public bonds or obligations may be issued in one or more series under the resolution or under a trust indenture or other security agreement.
3. The resolution, trust indenture, or other security agreement, with respect to such public bonds or obligations, shall provide for all of the following:
 - a. The date on the public bonds or obligations.
 - b. The time of maturity.
 - c. The rate of interest.
 - d. The denomination.
 - e. The form, either coupon or registered.
 - f. The conversion, registration, and exchange privileges.
 - g. The rank or priority.
 - h. The manner of execution.
 - i. The medium of payment, including the place of payment, either within or outside of the state.
 - j. The terms of redemption, either with or without premium.
 - k. Such other terms and conditions as set forth by the board in the resolution, trust indenture, or other security agreement.
4. Public bonds or obligations authorized by the board of directors shall not be subject to any restriction under other law with respect to the amount, maturity, interest rate, or other terms of obligation of a public agency or private person.
5. Chapter 75 shall not apply to public bonds or obligations authorized by the board of directors as provided in this section.

Sec. 22. NEW SECTION. 476A.25 PUBLIC BONDS OR OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR FUNDS.

1. The principal of and interest on any public bonds or obligations issued by an electric power agency shall be payable solely from the revenues or funds pledged or available for their payment as authorized in this subchapter.

2. Each public bond or obligation shall contain all of the following terms:

a. That the principal of or interest on such public bonds or obligations is payable solely from revenues or funds of the electric power agency.

b. That neither the state or a political subdivision of the state other than the electric power agency, nor a public agency that is a member of the electric power agency is obligated to pay the principal or interest on such public bonds or obligations.

c. That neither the full faith and credit nor the taxing power of the state, of any political subdivision of the state, or of any such public agency is pledged to the payment of the principal of or the interest on the public bonds or obligations.

Sec. 23. NEW SECTION. 476A.26 PUBLIC BONDS OR OBLIGATIONS — TYPES — SOURCES FOR PAYMENT — SECURITY.

1. Except as otherwise expressly provided by this subchapter or by the electric power agency, every issue of public bonds or obligations of the electric power agency shall be payable out of any revenues or funds of the electric power agency, subject only to any agreements with the holders of particular public bonds or obligations pledging any particular revenues or funds.

2. An electric power agency may issue types of public bonds or obligations as it may determine, including public bonds or obligations as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest in such project or projects, or a right to capacity of such project or projects, or from any revenue-producing contract made by the electric power agency with any person, or from its revenues generally.

3. Any public bonds or obligations may be additionally secured by a pledge of any grant, subsidy, or contribution from any public agency or other person, or a pledge of any income or revenues, funds, or moneys of the electric power agency from any other source.

Sec. 24. NEW SECTION. 476A.27 PUBLIC BONDS OR OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO STATE APPROVAL.

Public bonds or obligations of an electric power agency may be issued under this subchapter, and rents, rates, and charges may be established in the same manner as provided in section

28F.5 and pledged for the security of public bonds or obligations and interest and redemption premiums on such public bonds or obligations, without obtaining the consent of any department, division, commission, board, bureau, or agency of the state and without any other proceeding or the happening of any other condition or occurrence, except as specifically required by this subchapter.

Sec. 25. NEW SECTION. 476A.28 PUBLIC BONDS OR OBLIGATIONS TO BE NEGOTIABLE.

All public bonds or obligations of an electric power agency shall be negotiable within the meaning and for all of the purposes of the uniform commercial code, chapter 554, subject only to the registration requirement of section 76.10.

Sec. 26. NEW SECTION. 476A.29 VALIDITY OF PUBLIC BONDS OR OBLIGATIONS AT DELIVERY — TEMPORARY BONDS.

1. Any public bonds or obligations may be issued and delivered, notwithstanding that one or more of the officers executing them shall have ceased to hold office at the time when the public bonds or obligations are actually delivered.
2. Pending preparation of definitive bonds or obligations, an electric power agency may issue temporary bonds or obligations that shall be exchanged for the definitive bonds or obligations upon their issuance.

Sec. 27. NEW SECTION. 476A.30 PUBLIC OR PRIVATE SALE OF BONDS AND NOTES.
Public bonds or obligations of an electric power agency may be sold at public or private sale for a price and in a manner determined by the electric power agency.

Sec. 28. NEW SECTION. 476A.31 PUBLIC BONDS OR OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

The following persons may legally invest any debt service funds, money, or other funds belonging to such person or within such person's control in any public bonds or obligations issued pursuant to this subchapter:

1. A bank, trust company, savings association, building and loan association, savings and loan association, or investment company.
2. An insurance company, insurance association, or any other person carrying on an insurance business.
3. An executor, administrator, conservator, trustee, or other fiduciary.

4. Any other person authorized to invest in bonds or obligations of the state.

Sec. 29. NEW SECTION. 476A.32 RESOLUTION, TRUST INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT — PROVISIONS.

The resolution, trust indenture, or other security agreement under which any public bonds or obligations are issued shall constitute a contract with the holders of the public bonds or obligations, and may contain provisions, among others, prescribing any of the following terms:

1. The terms and provisions of the public bonds or obligations.
2. The mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenue from any project or any revenue producing contract made by the electric power agency with any person to secure the payment of public bonds or obligations, subject to any agreements with the holders of public bonds or obligations which might then exist.
3. The custody, collection, securing, investment, and payment of any revenues, assets, money, funds, or property with respect to which the electric power agency may have any rights or interest.
4. The rates or charges for electric energy sold by, or services rendered by, the electric power agency, the amount to be raised by the rates or charges, and the use and disposition of any or all revenue.
5. The creation of reserves or debt service funds and the regulation and disposition of such reserves or funds.
6. The purposes to which the proceeds from the sale of any public bonds or obligations to be issued may be applied, and the pledge of the proceeds to secure the payment of the public bonds or obligations.
7. Limitations on the issuance of any additional public bonds or obligations, the terms upon which additional public bonds or obligations may be issued and secured, and the refunding of outstanding public bonds or obligations.
8. The rank or priority of any public bonds or obligations with respect to any lien or security.
9. The creation of special funds or moneys to be held for operating expenses, payment, or redemption of public bonds or obligations, reserves or other purposes, and the use and disposition of moneys held in these funds.

10. The procedure by which the terms of any contract with or for the benefit of the holders of public bonds or obligations may be amended or abrogated, the amount of public bonds or obligations the holders of which must consent to such amendment or abrogation, and the manner in which consent may be given.

11. The definition of the acts or omissions to act that constitute a default in the duties of the electric power agency to holders of its public bonds or obligations, and the rights and remedies of the holders in the event of default including, if the electric power agency so determines, the right to accelerate the date of the maturation of the public bonds or obligations or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the resolution, trust indenture, or other security agreement.

12. Any other or additional agreements with or for the benefit of the holders of public bonds or obligations or any covenants or restrictions necessary or desirable to safeguard the interests of the holders.

13. The custody of any of the electric power agency's property or investments, the safekeeping of such property or investments, the insurance to be carried on such property or investments, and the use and disposition of insurance proceeds.

14. The vesting in a trustee or trustees, within or outside the state, of such property, rights, powers, and duties as the electric power agency may determine; or the limiting or abrogating of the rights of the holders of any public bonds or obligations to appoint a trustee, or the limiting of the rights, powers, and duties of such trustee.

15. The appointment of and the establishment of the duties and obligations of any paying agent or other fiduciary within or outside the state.

Sec. 30. NEW SECTION. 476A.33 MORTGAGE OR TRUST DEED TO SECURE BONDS.

For the security of public bonds or obligations issued or to be issued by an electric power agency, the electric power agency may mortgage or execute deeds of trust of the whole or any part of its property.

Sec. 31. NEW SECTION. 476A.34 NO PERSONAL LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

An official, director, member of an electric power agency, or any person executing public bonds or obligations shall not be liable personally on the public bonds or obligations or be subject to any personal liability or accountability by reason of the issuance of such public bonds or obligations.

Sec. 32. NEW SECTION. 476A.35 REPURCHASE OF SECURITIES.

An electric power agency may purchase public bonds or obligations out of any funds available for such purchase, and hold, pledge, cancel, or resell the public bonds or obligations, subject to and in accordance with any agreements with the holders.

Sec. 33. NEW SECTION. 476A.36 PLEDGE OF REVENUE AS SECURITY.

An electric power agency may pledge its rates, rents, and other revenues, or any part of such rates, rents, and revenues, as security for the repayment, with interest and redemption premiums, if any, of the moneys borrowed by the electric power agency or advanced to the electric power agency for any of its authorized purposes and as security for the payment of moneys due and owed by the electric power agency under any contract.

Sec. 34. Section 478.3, Code 2001, is amended by adding the following new subsection:

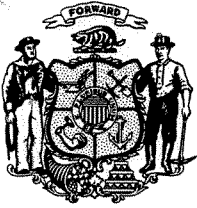
NEW SUBSECTION. 3. For the purpose of this section, the term "public" shall not be interpreted to be limited to consumers located in this state.

Sec. 35. CODE EDITOR DIRECTIVE. The Code editor shall change references to "this chapter" in sections 476A.1 through 476A.15 as necessary and appropriate to reflect the addition of the new subchapter to chapter 476A as a result of this Act.

Sec. 36. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved July 3, 2001

¹ 2001 Iowa Acts, Regular Session, chapter 158 herein



Public Service Commission of Wisconsin

Burneatta Bridge, Chairperson
Robert M. Garvin, Commissioner
Mark Meyer, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

January 25, 2005

The Honorable Robert Cowles
The State Senate
State Capitol, Room 122 South
Madison, WI 53707

Re: Legislation creating a fixed return on equity for power plant construction

Dear Chairperson Cowles:

Congratulations on your reappointment to chair the Energy, Utilities and Information Technology Committee. We look forward to working with you in the 2005-2007 legislative session on the numerous energy and telecommunications issues that face Wisconsin.

Last year, we approved the Strategic Energy Assessment, which is the product of a comprehensive energy planning process that looked at Wisconsin's long-term energy needs. Chapter 10 in the final Strategic Energy Assessment identifies potential statutory changes that could be implemented to help ensure sufficient electric capacity and energy at a reasonable price. As we begin the legislative session we write to ask you to consider one of the most needed changes that would establish a new financing mechanism for rate-based power plant construction.

Currently, the Commission can use lease generation, traditional rate base ratemaking or purchase power agreements when determining a financing mechanism for utilities building new power plants. The Commission is proposing adding a third method called fixed return on equity that would benefit customers, shareholders and utilities.

Lease Generation

Lease generation allows an unregulated utility to purchase the power plant and lease it back to the regulated utility. Lease generation capacity sets the financial terms for the life of the lease which allows for a steady rate of return ensuring financial stability for the utility. Although lease generation allows for financial stability it is not always the most cost effective method of financing a power plant.

Traditional Rate Base

Traditional rate base ratemaking uses the new investment value which is depreciated over the life of the power plant. The advantage of the rate base technique is that on the present value basis it can be a lower cost than the lease generation. However, the disadvantage to utilities is that future Commissions can reset the financial terms leaving financial risk and regulatory uncertainty.

Fixed Return on Equity


The Commission is proposing a third method of financing power plants called fixed return on equity that would allow both a lower cost than lease generation as well as financial and regulatory certainty. The rate of return under this financing method would be fixed for the life of the project for rate based financing. Iowa allows this type of financing and utilities there have successfully financed construction projects with this approach. The proposal has a broad base of support from Wisconsin utilities and customer groups.

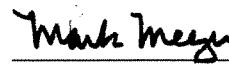
We would appreciate you considering authoring legislation to allow the Commission to use this third financing alternative. We look forward to working with you on this legislative change and would be happy to answer questions and further discuss the issue with you. Please contact us through our Legislative Liaison, Matthew Pagel at 266-1383.

Again, congratulations on your chairmanship and best wishes for a successful legislative session.

Sincerely,


Burneatta Bridge
Chairperson


Robert Garvin
Commissioner


Mark Meyer
Commissioner

Legislative Liaison

Cc: Representative Phil Montgomery

From Terry Hottelroth, Alliant Energy
attorney, 458-3265

**DRAFT – PRIVILEGED AND CONFIDENTIAL – NOT FOR PUBLIC
DISTRIBUTION**

196. __ . Approval of ratemaking principles.

(1) **APPLICABILITY.** This section applies to the commission's treatment in rates of costs incurred by a public utility for the construction or purchase of an electric generating facility for which the utility has been granted a certificate under s. 196.49(3) or 196.491(3).

(2) (a) A public utility applying for a certificate under s. 196.49(3) or 196.491(3) to construct or purchase an electric generating facility may also apply to the commission for an order specifying in advance the ratemaking principles which shall be applied to recovery of the costs of the facility in future rate-setting proceedings. The purpose of such order is to provide certainty to the public utility, utility investors, and ratepayers as to the future recovery of facility costs in electric rates. A public utility requesting an order for ratemaking principles shall submit an application to the commission setting forth its proposal for future cost recovery with respect to all of the following elements:

1. Economic useful life of the facility;
2. Return on equity;
3. The manner in which the utility proposes to finance the facility;
4. Determination of allowable costs to be recovered in rates;
5. Other elements needed to provide certainty to the utility, its investors, and ratepayers as to the future recovery of the facility's costs in electric rates which are identified by the commission and set forth in administrative rule.

(b) The commission shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms in setting the applicable ratemaking principles for a proposed facility under this section.

(d) This section does not override other provisions of this chapter governing ratemaking limitations and requirements generally applicable to public utilities.

(3) (a) The order setting forth the applicable ratemaking principles may be issued in conjunction with an order granting a certificate under s. 196.49(3) or 196.491(3) and the commission may include the issue of ratemaking principles to be applied to the facility as an issue for consideration in the hearing process for a certificate under s. 196.49(3) or s. 196.491(3), or the commission may conduct a separate proceeding solely to determine the ratemaking principles to be applied to the facility.

(b) If the commission conducts a separate proceeding and issues a separate order solely setting forth the applicable ratemaking principles, such order shall be issued prior to the commencement of construction or purchase of the facility.

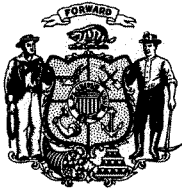
(4) A utility electing to seek prior approval of ratemaking principles under this section shall have the option, following issuance of the order setting forth the ratemaking principles, to proceed under the principles set forth in the order, or to waive applicability of the order. The utility shall make its election within 90 days of issuance of the order. If the utility elects to waive applicability of the order, the costs of the facility shall be

considered by the commission in future rate-setting proceedings in the same manner as the commission considers facility costs for which no order has been issued under this section. If the utility elects to proceed under the principles set forth in the order, those principles shall be binding with regard to the costs of the facility in any future rate-setting proceeding, notwithstanding any provision of this chapter or any rule to the contrary. The commission may not, directly or indirectly, require a utility to seek prior approval of ratemaking principles or to proceed under an order issued under this section.

(5) The commission shall promulgate administrative rules for the implementation of this section.

(6) The legislature finds that the state's need for additional electric generating facilities in order to provide a supply sufficient to ensure reliable electric service constitutes an immediate threat to the public health, safety and welfare warranting the issuance of emergency rules for the approval of ratemaking principles governing the future recovery in rates of utilities' costs of construction or purchase of new electric generating facilities. The commission shall promulgate emergency rules to implement this section no later than September 1, 2005 and shall thereupon proceed to promulgate permanent administrative rules.

Session law/nonstatutory provision: Proposed administrative rules shall be submitted to the presiding officer of each house for review under s. 227.19 no later than September 1, 2005.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0336/P1

MDK:.....

WJ

NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Tomorrow
(Thu)
2/10
4pm

LPS:
Please
check
autorefs.

- 1 **AN ACT** ^{Gen}...; **relating to:** specifying the rate-making principles applicable to
2 certain electric generating facilities, providing an exemption from emergency
3 rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 **SECTION 1.** 196.37 (3m) [✓] of the statutes is created to read:
5 196.37 (3m) If the commission has issued an order [✓] to a public utility under s.
6 196.371, the commission, in issuing an order under this section regarding the public
7 utility, is bound by the rate-making principles specified in the order issued under s.
8 196.371. [✓]

1 **SECTION 2.** 196.371 of the statutes is created to read:

2 **196.371 Rate-making principles for electric generation construction.**

3 **(1) DEFINITION.** In this section, "certificate" means a certificate issued under s.
4 196.49 (3) or 196.491 (3).

5 **(2) APPLICATION.** A public utility that applies for a certificate for the
6 construction of an electric generating facility may also apply to the commission for
7 an order specifying in advance the rate-making principles that the commission shall
8 apply to the public utility's recovery of facility costs in future rate-making
9 proceedings. In applying for an order under this section, a public utility shall
10 describe the public utility's proposal for cost recovery, including all of the following:

11 (a) The economic useful life of the facility.

12 (b) The proposed return on equity for the facility.

13 (c) The proposed financing mechanisms for the facility.

14 (d) The proposed method for determining the costs that may be recovered in
15 rates.

16 (e) Any other information specified by rule by the commission.

17 **(3) PROCEDURE.** (a) The commission shall conduct a hearing on an application
18 for an order under this section. The commission may hold the hearing in conjunction
19 with a hearing, if any, on the application for the certificate or the commission may
20 hold a separate hearing on the application for the order. No later than the date that
21 the commission takes final action on the application for the certificate, the
22 commission shall determine whether to deny an application for an order or issue an
23 order. The commission may issue an order if the commission determines that the
24 order will provide a sufficient degree of certainty to the public utility, investors, and

1 ratepayers with respect to future recovery of the facility's costs and that the order is
2 otherwise in the public interest.

3 (b) 1. Except as provided in subd. 2., no later than 90 days after the commission
4 issues an order to a public utility under this section, the public utility shall notify the
5 commission that the public utility has accepted or waived acceptance of the order.

6 2. If an action for judicial review of an order issued under this section is
7 commenced within the 90-day period specified in subd. 1., the public utility shall, no
8 later than 90 days after the final decision of the court, notify the commission that the
9 public utility has accepted or waived acceptance of the order.

10 (c) If the public utility notifies the commission that the public utility has
11 accepted the order, the rate-making principles specified in the order shall be binding
12 on the commission in all future rate-making proceedings regarding the public utility.
13 If the public utility notifies the commission that the public utility waives acceptance
14 of the order, the commission shall withdraw the order and consider the costs of the
15 facility in all future rate-making proceedings in the same manner as the commission
16 considers costs for which no order has been issued under this section.

17 (d) The commission may not require a public utility to apply for an order under
18 this section and may not require a public utility to accept or waive acceptance of an
19 order under this section.

20 (4) RULES. The commission shall promulgate rules for administering this
21 section.

22 SECTION 3. 196.39 (5) of the statutes is created to read:

23 196.39 (5) This section does not apply to an order issued under s. 196.371.

24 SECTION 4. Nonstatutory provisions.

1 (1) EMERGENCY RULES. The public service commission shall, using the procedure
2 under section 227.24 of the statutes, promulgate the rules required under section
3 196.371 (4) of the statutes, as created by this act, for the period before permanent
4 rules become effective, but not to exceed the period authorized under section 227.24
5 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
6 of the statutes, the commission is not required to provide evidence that promulgating
7 a rule under this subsection as an emergency rule is necessary for the preservation
8 of the public peace, health, safety, or welfare and is not required to provide a finding
9 of emergency for a rule promulgated under this subsection. The public service
10 commission shall promulgate the rules required under this subsection no later than
11 the first day of the 3rd month beginning after the effective date of this subsection.

12 (2) PROPOSED RULES. The public service commission shall submit in proposed
13 form the rules required under section 196.371 (4) of the statutes, as created by this
14 act, to the legislative council staff under section 227.15 (1) of the statutes no later
15 than the first day of the 3rd month beginning after the effective date of this
16 subsection.

17 **SECTION 5. Effective dates.** This act takes effect on the first day of the 3rd
18 month after publication, except as follows:

19 (1) Section 4 (1) and (2) of this act takes effect on the day after publication.

20 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0336/P1dn

MDK:.....

Wlj

Sen. Cowles:

Please note the following about this preliminary draft:

1. The instructions refer to a public utility's "purchase", in addition to "construction", of an electric generating facility. However, the certificates under ss. 196.49 (3) and 196.491 (3) apply to the construction, not purchase, of a facility. Therefore, the draft does not refer to purchases. 7 stats
2. The draft applies to applications for certificates under s. 196.49 (3) or 196.491 (3), stats. However, if you anticipate that an order will be sought only for large electric generating facilities, you should consider revising the draft so that it only applies to certificates under s. 196.491 (3), stats.
3. I assume that you want to require the PSC to hold a hearing on an application for an order. Is that correct? (On a related point, note that the PSC must hold a hearing under s. 196.491 (3), stats., but that a hearing is not always required under s. 196.49, stats. Therefore, proposed s. 196.371 (3) (a) allows the PSC to hold the hearing on the application for an order in conjunction with the hearing, *if any*, for the certificate under s. 196.49 (3) or 196.491 (3).) stats
4. Are the grounds for issuing an order okay (i.e., PSC determinations regarding sufficient degree of certainty and public interest)?
5. Are the application requirements in proposed s. 196.371 (2) (a) to (d) okay?
6. The instructions require the PSC to determine whether to issue an order prior to commencement of construction. I didn't include this requirement because it imposes a deadline on the PSC that is based on an event outside the PSC's control. Instead, proposed s. 196.371 (3) (a) requires the PSC to make a determination no later than the date that the PSC takes final action on the application for a certificate. Is that okay? If not, and you want a different deadline, you should be aware of the following timing issues under s. 196.491 (3), stats. Under s. 196.491 (3) (g), the PSC has 180 days (plus, subject to court approval, an additional 180 days) to take final action on an application for a certificate under s. 196.491 (3). Also, s. 196.491 (3c) imposes a deadline on commencement of construction based, in part, on the date of issuance of a certificate. You should consider whether your deadline is consistent with the foregoing deadlines.

7. Proposed s. 196.371 (3) (b) 2. adjusts the 90-day deadline for a public utility's acceptance or waiver of an order in the event that the public utility (or an intervenor) seeks judicial review of an order. (Under s. 196.41 stats., PSC orders are subject to review under ch. 227, stats. In addition, ch. 227 itself provides judicial review for persons whose substantial interests are adversely affected by agency decisions. See s. 227.52, stats.)

8. The instructions include a delayed effective date of September 1, 2005. However, it's possible that the bill won't pass until after that date. Therefore, I changed the delayed effective date to the first day of the 3rd month after publication, which is approximately 2 months after publication. Is that okay?

9. Note that the PSC has approximately 2 months after publication of the bill to promulgate emergency rules and submit proposed rules to legislative council. You may want to get input from the PSC on whether more time is necessary. If more time is needed, the delayed effective date should be revised.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0336/P1dn
MDK:wlj:jf

February 10, 2005

Sen. Cowles:

Please note the following about this preliminary draft:

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4. Are the grounds for issuing an order okay (i.e., PSC determinations regarding sufficient degree of certainty and public interest)?
5. Are the application requirements in proposed s. 196.371 (2) (a) to (d) okay?
6. The instructions require the PSC to determine whether to issue an order prior to commencement of construction. I didn't include this requirement because it imposes a deadline on the PSC that is based on an event outside the PSC's control. Instead, proposed s. 196.371 (3) (a) requires the PSC to make a determination no later than the date that the PSC takes final action on the application for a certificate. Is that okay? If not, and you want a different deadline, you should be aware of the following timing issues under s. 196.491 (3), stats. Under s. 196.491 (3) (g), the PSC has 180 days (plus, subject to court approval, an additional 180 days) to take final action on an application for a certificate under s. 196.491 (3). Also, s. 196.491 (3c) imposes a deadline on commencement of construction based, in part, on the date of issuance of a certificate. You should consider whether your deadline is consistent with the foregoing deadlines.

7. Proposed s. 196.371 (3) (b) 2. adjusts the 90-day deadline for a public utility's acceptance or waiver of an order in the event that the public utility (or an intervenor) seeks judicial review of an order. (Under s. 196.41 stats., PSC orders are subject to review under ch. 227, stats. In addition, ch. 227 itself provides judicial review for persons whose substantial interests are adversely affected by agency decisions. See s. 227.52, stats.)

8. The instructions include a delayed effective date of September 1, 2005. However, it's possible that the bill won't pass until after that date. Therefore, I changed the delayed effective date to the first day of the third month after publication, which is approximately two months after publication. Is that okay?

9. Note that the PSC has approximately two months after publication of the bill to promulgate emergency rules and submit proposed rules to the Legislative Council. You may want to get input from the PSC on whether more time is necessary. If more time is needed, the delayed effective date should be revised.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Stuart, Todd
Sent: Tuesday, February 15, 2005 12:42 PM
To: Kunkel, Mark
Subject: FW: draft legislation on ratemaking principles
Importance: High

Mark:

I just received this feedback, and I agree with where they are going. Please adopt these changes into the draft as much as possible.

-----Original Message-----

From: Theresa Hottenroth [mailto:theresahottenroth@alliantenergy.com]
Sent: Tuesday, February 15, 2005 12:34 PM
To: Stuart, Todd
Cc: Bill Jordahl
Subject: draft legislation on ratemaking principles
Importance: High

Todd,

Attached is some language setting out possible alternatives for addressing the two issues we discussed in the current LRB draft:

1. To address purchases of electric generating facilities, we would add a section 196.372 which parallels the section (196.371) on construction of such facilities, only in a different situation. Elements of the utility's proposal, procedure, permanent nature, etc. would all be the same.
2. To address the potential for other issues needing to be considered in order to meet the overriding objective of providing certainty to the utility, investors, and ratepayers as to how construction or purchase costs will be treated down the road in ratemaking proceedings, we would reinstate language similar to that originally proposed for 196.371(2)(a) through (d). It could be narrowed, however, by providing that the commission will specify in administrative rule (a) those cost elements that must be addressed in an application under this procedure, and (b) those cost elements that may be so addressed.

This will also help to buttress the legislative intent behind the statute. Although the LRB generally will not include statements of legislative intent, it is fair to look to other statutory language to discern the intent. Here, the intent is reflected in this proposed language as well as in the section on "Procedure" (specifying that "the commission may issue an order if the commission determines that the order will provide a sufficient degree of certainty to the public utility, investors, and ratepayers with respect to future recovery of the facility's costs and that the order is otherwise in the public interest").

I hope this is clear. Please feel free to call me with any questions.

Terry

Theresa M. Hottenroth
 Regulatory Attorney
 Alliant Energy Corporation
 Phone: (608) 458-3265
 Fax: (608) 458-4820

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02/15/2005

only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please notify me by replying to this message and permanently delete the original and any copy of this e-mail and any printout thereof.

theresahottenroth@alliantenergy.com

1. Include statutory language allowing a utility to request the prior approval of ratemaking principles to be applied to cost recovery in rates of a utility's purchase of an electric generating facility.

Suggestion: leave as is the proposed sec. 196.371 [Section 2 of LRB-0336/P1], which addresses "Rate-making principles for electric generation construction." Create sec. 196.372 which would apply the provisions of sec. 196.371 to a utility's request for an order specifying in advance the rate-making principles to be applied to recovery of facility purchase costs in future rate-making proceedings.

SECTION 3. 196.372 of the statutes is created to read:

196.372 Rate-making principles for purchase of electric generating facilities.

A public utility proposing to purchase an electric generating facility may apply to the commission for an order specifying in advance the rate-making principles that the commission shall apply to the public utility's recovery of facility costs, including the purchase price and any necessary modifications or improvements to the facility, in future rate-making proceedings. An application for an order under this section shall include the information required for an application under sec. 196.371(2). The commission shall conduct a hearing and take action on the application as provided in sec. 196.371(3).

Section 3 of the LRB draft becomes Section 4 and is amended by adding "s. 196.372" at the end, after "s.196.371." ("196.39(5) This section does not apply to an order issued under s. 196.371 or s. 196.372.") Sections 4 and 5 of the draft become 5 and 6.

2. Include in sec. 196.371(2) another element of the utility's proposal for cost recovery whereby the utility may propose other ratemaking principles needed to provide certainty in a particular case.

It is important that the utility be able to propose, and the commission be able to consider, a full range of the ratemaking principles which are appropriate in a given case in order to meet the objective of providing certainty to the utility, its shareholders, and its ratepayers. In order to limit the scope of the application and the range of issues which could be addressed for ratemaking purposes, it would be possible to ask the commission to identify two categories in administrative rule: (1) those areas for ratemaking principles, in addition to the four set out in the statute, which may be addressed by a utility in its application; and (2) any ratemaking principles in addition to the four set out in the statute which the commission concludes must be addressed in an application. Suggested language:

Renumber 196.371(2)(e) to be 196.371(2)(f).

Create 196.371(2)(e) to read as follows:

(e) other elements of cost recovery needed to provide certainty to the utility, its shareholders, and its ratepayers for future ratemaking. The commission shall

specify by rule those elements which may be addressed in a proposal at the utility's election, and those elements which must be addressed by the utility in its proposal.

3. Effective date and period for rulemaking: change from "first day of 3rd month" to "first day of 4th month" in proposed Section 4, sub. 2 (page 4, line 15) and in proposed Section 5, sub. 1 (page 4, line 17).

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT 1A ✓

- 1 AN ACT *to create* 196.37 (3m), 196.371 and 196.39 (5) of the statutes; **relating**
2 to: specifying the rate-making principles applicable to certain electric
3 generating facilities, providing an exemption from emergency rule procedures,
4 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 5 **SECTION 1.** 196.37 (3m) of the statutes is created to read:
6 196.37 (3m) If the commission has issued an order to a public utility under s.
7 196.371, the commission, in issuing an order under this section regarding the public
8 utility, is bound by the rate-making principles specified in the order issued under s.
9 196.371.

1 SECTION 2. 196.371 of the statutes is created to read:

2 **196.371 Rate-making principles for electric generation construction** ^{⑧ facilities}

3 (1) DEFINITION. In this section, "certificate" means a certificate issued under s.
4 196.49 (3) or 196.491 (3).

5 (2) APPLICATION. A public utility that applies for a certificate for the
6 construction of an electric generating facility may ^{INSERT 2-5 ✓} also apply to the commission for
7 an order specifying in advance the rate-making principles that the commission shall
8 apply to the public utility's recovery of facility costs in future rate-making
9 proceedings. In applying for an order under this section, a public utility shall
10 describe the public utility's proposal for cost recovery, including all of the following:

- 11 (a) The economic useful life of the facility.
12 (b) The proposed return on equity for the facility.
13 (c) The proposed financing mechanisms for the facility.
14 (d) The proposed method for determining the costs that may be recovered in
15 rates. ^{INSERT 2-15 ✓}

16 (e) Any other information specified by rule by the commission. ^{INSERT 2-20 ✓}

17 (3) PROCEDURE. (a) The commission shall conduct a hearing on an application
18 for an order under this section. The commission may hold the hearing in conjunction
19 with a hearing, if any, on the application for the certificate or the commission may
20 hold a separate hearing on the application for the order. No later than the date that
21 the commission takes final action on the application for the certificate, the
22 commission shall determine whether to deny an application for an order or issue an
23 order. The commission may issue an order if the commission determines that the
24 order will provide a sufficient degree of certainty to the public utility, investors, and

1 ratepayers with respect to future recovery of the facility's costs and that the order is
2 otherwise in the public interest.

3 (b) 1. Except as provided in subd. 2., no later than 90 days after the commission
4 issues an order to a public utility under this section, the public utility shall notify the
5 commission that the public utility has accepted or waived acceptance of the order.

6 2. If an action for judicial review of an order issued under this section is
7 commenced within the 90-day period specified in subd. 1[✓], the public utility shall, no
8 later than 90 days after the final decision of the court, notify the commission that the
9 public utility has accepted or waived acceptance of the order.

10 (c) If the public utility notifies the commission that the public utility has
11 accepted the order, the rate-making principles specified in the order shall be binding
12 on the commission in all future rate-making proceedings regarding the public utility.
13 If the public utility notifies the commission that the public utility waives acceptance
14 of the order, the commission shall withdraw the order and consider the costs of the
15 facility in all future rate-making proceedings in the same manner as the commission
16 considers costs for which no order has been issued under this section.

17 (d) The commission may not require a public utility to apply for an order under
18 this section and may not require a public utility to accept or waive acceptance of an
19 order under this section.

20 (4) RULES. The commission shall promulgate rules for administering this
21 section.

22 **SECTION 3.** 196.39 (5) of the statutes is created to read:

23 196.39 (5) This section does not apply to an order issued under s. 196.371.[✓]

24 **SECTION 4. Nonstatutory provisions.**

1 (1) EMERGENCY RULES. The public service commission shall, using the procedure
2 under section 227.24 of the statutes, promulgate the rules required under section
3 196.371 (4) of the statutes, as created by this act, for the period before permanent
4 rules become effective, but not to exceed the period authorized under section 227.24
5 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
6 of the statutes, the commission is not required to provide evidence that promulgating
7 a rule under this subsection as an emergency rule is necessary for the preservation
8 of the public peace, health, safety, or welfare and is not required to provide a finding
9 of emergency for a rule promulgated under this subsection. The public service
10 commission shall promulgate the rules required under this subsection no later than
11 the first day of the ²3rd month ^{4+h}beginning after the effective date of this subsection.

12 (2) PROPOSED RULES. The public service commission shall submit in proposed
13 form the rules required under section 196.371 (4) of the statutes, as created by this
14 act, to the legislative council staff under section 227.15 (1) of the statutes no later
15 than the first day of the ²3rd month ^{4+h}beginning after the effective date of this
16 subsection.

17 **SECTION 5. Effective dates.** This act takes effect on the first day of the ^{4+h}3rd ₂
18 month beginning after publication, except as follows:

19 (1) Section 4 (1) and (2) of this act takes effect on the day after publication.

20 (END)

1

INSERT 1A:

Under current law, a public utility may not change its rates for electric service unless the Public Service Commission (PSC) has approved the change in a rate-making proceeding. This bill allows a public utility that proposes to purchase or construct an electric generating facility to apply to the PSC for an order that specifies in advance the rate-making principles that the PSC will apply to facility costs in future rate-making proceedings.

The bill allows the PSC to issue such an order if the PSC determines both of the following: 1) that the order will provide a sufficient degree of certainty to the public utility, investors, and rate payers with respect to future recovery of the facility's costs; and 2) that the order is otherwise in the public interest. If the PSC issues an order, the public utility has the option of accepting or waiving acceptance of the order. If the public utility accepts the order, the rate-making principles specified in the order are binding on the PSC in all future rate-making proceedings regarding the public utility. In addition, unlike other orders under current law, the PSC may not subsequently rescind or alter the order. If the public utility waives acceptance of the order, the PSC must withdraw the order and consider the costs of the facility in all future rate-making proceedings in the same manner as the PSC considers costs for which no such order has been issued.

The bill requires a public utility that applies for an order to describe the public utility's proposal for recovering the costs of the facility. The proposal must describe all of the following: 1) the facility's economic useful life; 2) the facility's proposed return on equity; 3) the facility's proposed financing mechanisms; 4) the proposed method for determining the costs that may be recovered in rates; 5) any other proposals or information that the public utility determines are necessary for providing certainty regarding cost recovery to the public utility, investors, and rate payers; and 6) any information specified by rule by the PSC.

The bill requires the PSC to hold a hearing on an application for an order. The hearing requirements depend on whether the public utility has proposed to purchase or construct the facility. If the public utility proposes to purchase the facility, the PSC must hold a hearing and determine whether to issue an order within 90 days of receipt of the application for the order. If the public utility proposes to construct the facility, current law requires the public utility to apply to the PSC for a certificate approving the construction. Depending on the generating capacity of the facility, current law may also require the PSC to hold a hearing on the application for the construction certificate. The bill allows the PSC to hold a hearing on an application for an order in conjunction with the hearing, if any, that is required under current law for the construction certificate. In addition, the PSC must determine whether to issue the order no later than the date the PSC is required to take final action on the construction certificate.

If the PSC determines to issue an order under the bill, the public utility has 90 days to exercise its option to accept or waive acceptance of the order. However, if the public utility or another party has commenced an action for judicial review of the

order, the public utility's deadline for exercising the option is 90 days after the final decision of the court.

The bill also does the following: 1) prohibits the PSC from requiring that a public utility apply for an order under the bill or that a public utility accept or waive acceptance of the order; and 2) requires the PSC to promulgate rules for administering the bill's requirements.

INSERT 2-5:

proposes to purchase an electric generating facility or that

INSERT 2-8:

, including the purchase price and any necessary modifications or improvements to the facility,

INSERT 2-15:

(e) Any other proposals or information regarding the recovery of facility costs that the public utility determines are necessary for providing certainty to the public utility, investors, and ratepayers in future rate-making proceedings.

INSERT 2-20:

If the public utility has applied for a certificate for the facility, the commission shall determine whether to deny an application for an order or to issue an order no later than the date that the commission takes final action on the application for the certificate. If the public utility has not applied for a certificate, the commission shall determine whether to deny an application for an order or to issue an order no later than 90 days after receipt of the application.

Grant, Peter

From: Stuart, Todd
Sent: Wednesday, February 16, 2005 1:24 PM
To: Grant, Peter
Subject: FW: Senate Energy & Utilities hearing date -- Tuesday, March 1st

-----Original Message-----

From: Gilles, Dave PSC
Sent: Wednesday, February 16, 2005 1:21 PM
To: Ebert, Dan PSC; Stuart, Todd
Subject: RE: Senate Energy & Utilities hearing date -- Tuesday, March 1st

Todd, here is the section that deals with completeness of the application:

196.491(3)(a)2. The commission shall determine whether an application filed under subd. 1. is complete and, no later than 30 days after the application is filed, notify the applicant about the determination. If the commission determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and refile an application that the commission has determined to be incomplete. There is no limit on the number of times that an applicant may refile an application under this subdivision. If the commission fails to determine whether an application is complete within 30 days after the application is filed, the application shall be considered to be complete.

From: Ebert, Dan PSC
Sent: Wednesday, February 16, 2005 1:17 PM
To: Stuart, Todd; Gilles, Dave PSC
Subject: RE: Senate Energy & Utilities hearing date -- Tuesday, March 1st

Dave,

Could you please e-mail Todd the completeness/180 day language from the CPCN statute. Thanks.

*Dave Gilles
6 1264*

*P. 4 2 28
delete 50, 45, 180
+ Δ to 180
P. 4 2 12-18
delete*

*This
alteration*

2

2005 BILL*Regen*

- 1 AN ACT *to create* 196.37 (3m), 196.371 and 196.39 (5) of the statutes; **relating**
2 **to:** specifying the rate-making principles applicable to certain electric
3 generating facilities, providing an exemption from emergency rule procedures,
4 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a public utility may not change its rates for electric service unless the Public Service Commission (PSC) has approved the change in a rate-making proceeding. This bill allows a public utility that proposes to purchase or construct an electric generating facility to apply to the PSC for an order that specifies in advance the rate-making principles that the PSC will apply to facility costs in future rate-making proceedings.

The bill allows the PSC to issue such an order if the PSC determines both of the following: 1) that the order will provide a sufficient degree of certainty to the public utility, investors, and rate payers with respect to future recovery of the facility's costs; and 2) that the order is otherwise in the public interest. If the PSC issues an order, the public utility has the option of accepting or waiving acceptance of the order. If the public utility accepts the order, the rate-making principles specified in the order are binding on the PSC in all future rate-making proceedings regarding the public utility. In addition, unlike other orders under current law, the PSC may not subsequently rescind or alter the order. If the public utility waives acceptance of the order, the PSC must withdraw the order and consider the costs of the facility in all

BILL

future rate-making proceedings in the same manner as the PSC considers costs for which no such order has been issued.

The bill requires a public utility that applies for an order to describe the public utility's proposal for recovering the costs of the facility. The proposal must describe all of the following: 1) the facility's economic useful life; 2) the facility's proposed return on equity; 3) the facility's proposed financing mechanisms; 4) the proposed method for determining the costs that may be recovered in rates; 5) any other proposals or information that the public utility determines are necessary for providing certainty regarding cost recovery to the public utility, investors, and rate payers; and 6) any information specified by rule by the PSC.

The bill requires the PSC to hold a hearing on an application for an order. The hearing requirements depend on whether the public utility has proposed to purchase or construct the facility. If the public utility proposes to purchase the facility, the PSC must hold a hearing and determine whether to issue an order within ~~90~~ ¹⁸⁰ days ~~of receipt of the application for the order.~~ If the public utility proposes to construct the facility, current law requires the public utility to apply to the PSC for a certificate approving the construction. Depending on the generating capacity of the facility, current law may also require the PSC to hold a hearing on the application for the construction certificate. The bill allows the PSC to hold a hearing on an application for an order in conjunction with the hearing, if any, that is required under current law for the construction certificate. In addition, the PSC must determine whether to issue the order no later than the date the PSC is required to take final action on the construction certificate.

If the PSC determines to issue an order under the bill, the public utility has 90 days to exercise its option to accept or waive acceptance of the order. However, if the public utility or another party has commenced an action for judicial review of the order, the public utility's deadline for exercising the option is 90 days after the final decision of the court.

The bill also does the following: 1) prohibits the PSC from requiring that a public utility apply for an order under the bill or that a public utility accept or waive acceptance of the order; and 2) requires the PSC to promulgate rules for administering the bill's requirements.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 196.37 (3m) of the statutes is created to read:
- 2 196.37 (3m) If the commission has issued an order to a public utility under s.
- 3 196.371, the commission, in issuing an order under this section regarding the public

BILL

1 utility, is bound by the rate-making principles specified in the order issued under s.
2 196.371.

3 **SECTION 2.** 196.371 of the statutes is created to read:

4 **196.371 Rate-making principles for electric generation facilities. (1)**

5 **DEFINITION.** In this section, “certificate” means a certificate issued under s. 196.49
6 (3) or 196.491 (3).

7 **(2) APPLICATION.** A public utility that proposes to purchase an electric
8 generating facility or that applies for a certificate for the construction of an electric
9 generating facility may apply to the commission for an order specifying in advance
10 the rate-making principles that the commission shall apply to the public utility’s
11 recovery of facility costs, including the purchase price and any necessary
12 modifications or improvements to the facility, in future rate-making proceedings.
13 In applying for an order under this section, a public utility shall describe the public
14 utility’s proposal for cost recovery, including all of the following:

15 (a) The economic useful life of the facility.

16 (b) The proposed return on equity for the facility.

17 (c) The proposed financing mechanisms for the facility.

18 (d) The proposed method for determining the costs that may be recovered in
19 rates.

20 (e) Any other proposals or information regarding the recovery of facility costs
21 that the public utility determines are necessary for providing certainty to the public
22 utility, investors, and ratepayers in future rate-making proceedings.

23 (f) Any other information specified by rule by the commission.

24 **(3) PROCEDURE.** (a) The commission shall conduct a hearing on an application
25 for an order under this section. The commission may hold the hearing in conjunction

BILL**SECTION 2**

1 with a hearing, if any, on the application for the certificate or the commission may
2 hold a separate hearing on the application for the order. If the public utility has
3 applied for a certificate for the facility, the commission shall determine whether to
4 deny an application for an order or to issue an order no later than the date that the
5 commission takes final action on the application for the certificate. If the public
6 utility has not applied for a certificate, the commission shall determine whether to
7 deny an application for an order or to issue an order no later than ¹⁸⁰~~90~~ days after
8 ~~receipt of the application.~~ ^{insert} The commission may issue an order if the commission
9 determines that the order will provide a sufficient degree of certainty to the public
10 utility, investors, and ratepayers with respect to future recovery of the facility's costs
11 and that the order is otherwise in the public interest.

12 (b) 1. Except as provided in subd. 2., ~~no later than 90 days~~ after the commission
13 issues an order to a public utility under this section, the public utility shall notify the
14 commission that the public utility has accepted or waived acceptance of the order.

15 2. If an action for judicial review of an order issued under this section is
16 commenced ~~within the 90-day period specified in subd. 1.~~, the public utility shall, no
17 later than 90 days after the final decision of the court, notify the commission that the
18 ~~public utility has accepted or waived acceptance of the order.~~

19 (b) ~~1.~~ If the public utility notifies the commission that the public utility has
20 accepted the order, the rate-making principles specified in the order shall be binding
21 on the commission in all future rate-making proceedings regarding the public utility.
22 If the public utility notifies the commission that the public utility waives acceptance
23 of the order, the commission shall withdraw the order and consider the costs of the
24 facility in all future rate-making proceedings in the same manner as the commission
25 considers costs for which no order has been issued under this section.

BILL

1 ~~(c)~~^(d) The commission may not require a public utility to apply for an order under
2 this section and may not require a public utility to accept or waive acceptance of an
3 order under this section.

4 **(4) RULES.** The commission shall promulgate rules for administering this
5 section.

6 **SECTION 3.** 196.39 (5) of the statutes is created to read:

7 **196.39 (5)** This section does not apply to an order issued under s. 196.371.

8 **SECTION 4. Nonstatutory provisions.**

9 **(1) EMERGENCY RULES.** The public service commission shall, using the procedure
10 under section 227.24 of the statutes, promulgate the rules required under section
11 196.371 (4) of the statutes, as created by this act, for the period before permanent
12 rules become effective, but not to exceed the period authorized under section 227.24
13 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
14 of the statutes, the commission is not required to provide evidence that promulgating
15 a rule under this subsection as an emergency rule is necessary for the preservation
16 of the public peace, health, safety, or welfare and is not required to provide a finding
17 of emergency for a rule promulgated under this subsection. The public service
18 commission shall promulgate the rules required under this subsection no later than
19 the first day of the 4th month beginning after the effective date of this subsection.

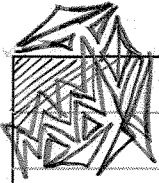
20 **(2) PROPOSED RULES.** The public service commission shall submit in proposed
21 form the rules required under section 196.371 (4) of the statutes, as created by this
22 act, to the legislative council staff under section 227.15 (1) of the statutes no later
23 than the first day of the 4th month beginning after the effective date of this
24 subsection.

BILL

1 **SECTION 5. Effective dates.** This act takes effect on the first day of the 4th
2 month beginning after publication, except as follows:

3 (1) Section 4 (1) and (2) of this act takes effect on the day after publication.

4 (END)



insert

Not

the commission determines that the application
for the order is complete using the
method and deadlines specified under

so 1960491 (3) (a) 20

Barman, Mike

From: Grant, Peter
Sent: Monday, February 21, 2005 8:11 AM
To: Barman, Mike
Subject: FW: LRB-0336/2

-----Original Message-----

From: Stuart, Todd
Sent: Sunday, February 20, 2005 12:48 PM
To: Kunkel, Mark; Grant, Peter; Emery, Lynn
Subject: LRB-0336/2

Please jacket/prepare LRB-0336/2 re: fixed ratemaking principles for power plant construction -- for introduction.
Thanks much-

Todd C. Stuart
Office of State Senator Rob Cowles
608.266.0484 Office
608.267.0304 Fax
todd.stuart@legis.state.wi.us